IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 15274 of 1999

Between:

P.Venkateswarlu, S/o. Venkaiah,
R/o. 2nd line, Seetharamnagar,
Guntur.

..... PETITIONER

AND

1 The Commissioner, Municipal Corporation ,
Guntur.
2 The Health Officer, Office of Municipal Corporation,
Guntur.
3 The Sanitary Inspector, VIII Division, Office of Municipal Corporation,
Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ ,order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent herein in not acting as per sec.42, 44 & 45 of the A.P.,(Andhra Area) Public Health Act,1939 pursuant to the representation dt.3.5.1999 of the Petitioner as arbitrary, illegal by issuing a consequential direction to the respondents herein to act upon the representation dt.3.5.99 of the petitioner, directing them to take appropriate action under Secs 42, 44 & 45 of the A.P.(A.A.) Public Health Act,1939.

Counsel for the Petitioner:MR.GADE VENKATESWARA RAO

Counsel for the Respondents.: MR.T.S.VENKATARAMANA

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

The present petition has been filed in the garb of public interest litigation by the petitioner making grievance as regards the nuisance being created by the residents of Seetharamnagar in releasing drainage water from the latrines to the municipal drain and no action being taken by the respondent-Municipality. Directions are sought against the respondents to take appropriate action under the Andhra Pradesh (Andhra Area) Public Health Act.

The Commissioner, Municipal Corporation of Guntur, filed affidavit dated 4th September, 1999 wherein he has denied the petitioner's allegations and stated that no complaint was received from the petitioner that has highlighted the fact of the creation of nuisance. According to him, the filing of the petition itself is mala fide and the petition is as a result of one Sri Gali Mohan Rao having filed W.P.No.26329 of 1996 seeking demolition of the petitioner's latrine. The affidavit further says that the writ petition has been filed:

> "…with a malafide intention to take revenge against Sri Gali Mohan Rao, S/o late Raja Rao, who filed a case in W.P.No.26329/96 which led to the demolition of the latrine of the present petitioner. The concerned Health Officer and Sanitary Inspector have personally visited the place and found that no connections of latrines are let out into the drain. The sullage water is not stagnated in this drain. The drain is regularly maintained by the public health staff. It is false to state that noxious smell of the breeding mosquitoes is coming out of the drain because the drain is regularly well maintained, cleaned and cleared. It is also personal grudge against the petitioner in W.P.No.26329 of 1996 the present petitioner has filed this writ petition by filing false affidavit in this court".

From the affidavit in reply, we do not find any bona fides in the petitioner approaching the court and also do not find any inaction on the part of the respondents and that the municipal staff is not taking care of the public health. Accordingly, no direction as such deserves to be issued in this petition, which stands closed.

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DEVINDER GUPTA, CJ

22-11-2004

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M.NARAYANA REDDY, J

Tvr

To

1 The Commissioner, Municipal Corporation ,
Guntur.
2 The Health Officer, Office of Municipal Corporation,
Guntur.
3 The Sanitary Inspector, VIII Division, Office of Municipal Corporation,
Guntur.

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